
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

CODY ROBERT JUDY,
Plaintiff,

v.

BARACK HUSSEIN OBAMA a.k.a.
BARRY SOETORO; DEMOCRATIC
NATIONAL COMMITTEE; and
ORGANIZATION FOR ACTION et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER DENYING WITHOUT
PREJUDICE MOTION FOR DEFAULT
ORDER OF JUDGMENT

Case No. 1:14-CV-93 TS

District Judge Ted Stewart

This matter is before the Court on Plaintiff's Motion for Default Order of Judgment.¹ In his Motion, Plaintiff asserts that Defendants have been properly served and have failed to appear or otherwise defend within the time allotted by the Federal Rules of Civil Procedure. On this basis, Plaintiff seeks a default judgment that includes an award of \$141 million in damages.

Federal Rule of Civil Procedure 55(a) provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Then, "[i]f the plaintiff's claim is for a sum certain . . . the clerk—on plaintiff's request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted."² However, where, as here, the judgment sought is not for a sum

¹ Docket No. 6.

² Fed. R. Civ. P. 55(b)(1).

certain, or for a sum that can be made certain, “the party must apply to the court for a default judgment.”³

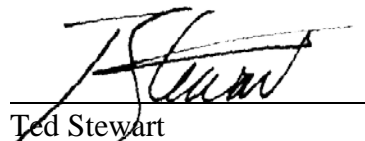
Plaintiff has applied to the Court for a default judgment. However, Plaintiff has not yet received a default certificate as required by Rule 55(a). Until Plaintiff receives a default certificate from the Clerk of Court, the Court cannot reach the merits of Plaintiff’s Motion for Default Order of Judgment. For this reason, the Court will deny Plaintiff’s Motion without prejudice. In so doing, the Court does not reach the merits of Plaintiff’s claim of proper service or entitlement to a default certificate. Rather, it will leave that determination to the Clerk of Court in the first instance.

Based on the foregoing, it is hereby

ORDERED that Plaintiff’s Motion for Default Order of Judgment (Docket No. 6) is DENIED WITHOUT PREJUDICE.

DATED this 26th day of August, 2014.

BY THE COURT:



Ted Stewart
United States District Judge

³ *Id.* 55(b)(2).